

In the Matter of License No. 208267 and all other Seaman Documents
Issued to: TONY HERNANDEZ

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1336

TONY HERNANDEZ

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 31 October 1961, an Examiner of the United States Coast Guard at Houston, Texas suspended Appellant's seaman documents for two months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as Third Assistant Engineer on board the United States SS GEORGE LYKES under authority of the license above described, while under way on 15 October 1961, Appellant left his watch station in the engine room without permission and without obtaining a relief.

At the hearing, Appellant was represented by counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of the Master and Chief Engineer as well as copies of entries in the ship's Official Logbook pertaining to this incident.

Appellant and several other witnesses testified in defense. Appellant stated that very suddenly he had a painful cramp which required immediate relief; Appellant told the oiler to stand by since there was no time to call anybody; Appellant went to the head; while returning to the engine room, he stopped in the mess hall to tie his shoestring and asked another seaman about the time of arrival; when the Chief Engineer appeared in the mess hall, Appellant told him that the reason for leaving the engine room was to go to the head.

FINDINGS OF FACT

On 15 October 1961, Appellant was serving as Third Assistant Engineer on board the United States SS GEORGE LYKES and acting under authority of his license while the ship was at sea.

Appellant was in charge of the 0000 to 0400 engine room watch on this date. About 0230 while the ship was off Galveston bound for Lake Charles, Louisiana, Appellant had a sudden attack of cramps. Appellant left the engine room to go to the head after telling the oiler the reason and ordering him to stand by for Appellant. He did not contact any other engineering officer or the bridge before leaving the engine room. Appellant went to the head and stopped in the mess hall for a matter of seconds on the way back to the engine room. The Chief Engineer saw Appellant in the mess hall. Appellant returned to the engine room after an absence of about two minutes and stood the balance of his watch without further difficulty.

At Lake Charles on the morning of 16 October, Appellant went to a physician and received a prescription for enteritis (inflammation of intestines).

Appellant has no prior record during 19 years of service.

OPINION

Appellant's stated reason for leaving the engine room has been accepted since it was corroborated by the oiler and was not rejected by the Examiner. The reason why Appellant stopped in the mess hall is not material to proof of the specification because his leaving the engine room was not justified under the circumstances.

As stated by the Master and Chief Engineer, it was improper for Appellant, as the engineering officer in charge of the engine room watch while under way, to leave his station without being relieved by another officer. Appellant could have telephoned the bridge or the Chief Engineer in order to obtain a relief. The engine room watch officer is required to be ready, at all times, to carry out orders from the bridge to change the speed of the engines to assist in maneuvering the ship. The oiler and others on watch in the engine room are not authorized to perform the latter and other necessary functions without the supervision of a licensed engineering officer. This is required in order to maintain safe operating conditions at sea; and Appellant's sickness was not an emergency which justified deviating from this requirement.

The mildness of the order imposed by the Examiner is appropriate because Appellant acted without deliberation and he has no prior record.

ORDER

The order of the Examiner dated at Houston, Texas, on 31 October 1961, is AFFIRMED.

D. McMorrisson
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 20th day of August, 1962.